

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, C.J.

WRIT PETITION No.2132 OF 2006

PETITIONERS

1. State of Chhattisgarh
Through Secretary
Department of Agriculture
Mantralaya Bhawan
Raipur, Chhattisgarh
2. Assistant Soil Conservation
Officer
National Water Shed Program
Kududand,
In front of Home Guards
Bilaspur, Chhattisgarh

Versus

RESPONDENTS

1. Rajkumar Maurya
S/o Bodhram Maurya
Village : Lachchanpur;
Post Patharia
Tehsil Mungeli
District Bilaspur Chhattisgarh
2. Presiding Officer
Labour Court
Bilaspur (C.G.)

Present : Shri Yashwant Singh, learned Govt. Advocate for the
petitioners.

ORAL ORDER

(Passed on 25th April, 2006)

This writ petition is directed against the award dated 09-09-2004
passed by the Labour Court, Bilaspur, in Case No. 121/IDA/2000.

(2) The case of the first respondent herein, Rajkumar Maurya, is that
he was appointed as Chowkidar by the Department of Agriculture and he
worked as such during the years 1992 to 1998. When the matter stood
thus, the Assistant Soil Conservation Officer, National Water Shed
Programme, Kududand, the second petitioner herein, orally refused
employment to the first respondent w.e.f. 01-04-1998. Feeling aggrieved

by the said action of the second petitioner, the first respondent initiated conciliation proceedings and on submission of the failure report, the State Government referred the dispute to the Labour Court, Bilaspur for adjudication.

(3) Before the Labour Court, the first respondent filed his claim petition contending that he was appointed as Chowkidar in the year 1992 and since then he had been continuously working as Chowkidar and his services were illegally terminated by the second petitioner by refusing employment with effect from 01-04-1998 and that action of the second petitioner was in utter violation of the mandatory provisions of Section 25 F of the Industrial Disputes Act 1947 (for short "the Act"). The petitioners herein filed their statement of counter claim. In their statement of counter claim, the petitioners contended that the first respondent was appointed on daily-wage basis and in the year 1998 they received a complaint against the first respondent from Krishak Mitra Mandal. On the basis of the complaint received from Krishak Mitra Mandal about his style of functioning, the second petitioner refused employment to the first respondent. It was also contended by the petitioners that since the first respondent was a daily-wager, there was no legal obligation for the petitioners to comply with the provisions of Section 25 F of the Act before terminating his services.

(4) In support of the case, the first respondent entered the witness box and deposed what he has stated in his claim statement. The first respondent was not cross-examined nor any witness was examined on behalf of the petitioners. In the circumstance, the Labour Court, Bilaspur accepting the case of the first respondent and having opined that

the refusal of employment on the part of the second petitioner w.e.f. 01-04-1998 would tantamount to termination of his services and since that was done without complying with the mandatory provisions of Section 25 F of the Act, the Labour Court directed reinstatement of the first respondent with continuity of service. However, the Labour Court denied entire back-wages to the first respondent. Feeling aggrieved by the above award of the Labour Court, Bilaspur, the State-Authorities have preferred this writ petition.

(5) I have heard learned Government Advocate for the petitioners. Learned Government Advocate would reiterate the same contentions which were taken in the counter claim statement filed before the Labour Court, in support of the writ petition.

(6) I am of the considered opinion that no exception could be taken to the impugned award passed by the Labour Court for more than one reason. In the first place, as against the evidence adduced by the first respondent in support of his claim, there is absolutely no contra evidence adduced by the petitioners. The statement made by the first respondent on oath before the Labour Court remained uncontested. Even otherwise, it is fairly admitted that the first respondent worked in the establishment of the Department of Agriculture during the years 1992 to 1998. The dispute relates to the status of the first respondent. When it is the case of the first respondent that he was appointed as Chowkidar on regular basis, it is the case of the petitioners that the first respondent was appointed as a daily-wager only. The stand taken by the petitioners in their pleading remained as a piece of pleading only without substantiating the same, whereas the evidence adduced by the first respondent to show that he

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was appointed as Chowkidar is not at all contested by the management by adducing any evidence. Secondly, the petitioners are bound by postulates of Article 14 of the Constitution. They can not practice the rule of hire and fire since that rule is obnoxious to the constitutional scheme and particularly to the mandates of Article 14 of the Constitution. The first respondent had worked six long years in the establishment of Department of Agriculture and therefore, the very action of the second petitioner summarily in refusing the work to the first respondent on 01-04-1998 without assigning any reason is *ex facie* illegal, smacks of arbitrariness and unreasonableness. Thirdly, since the second petitioner wanted to terminate the services of the first respondent on the ground of misconduct alleged against him by Krishak Mitra Mandal, the law required that he should have been apprised of the allegations made against him, given a fair opportunity to have his say in the matter and thereafterwards, an appropriate decision should have been taken. Furthermore, it was not expected of an officer of the cadre of the second petitioner to orally terminate the services of an employee without giving any reasons. Although, the termination of the services of the first respondent is *ex facie* illegal and violative of mandatory provisions of Section 25 F of the Act, the learned Presiding Officer of the Labour Court, Bilaspur has denied back-wages completely to the first respondent. In that view of the matter, the petitioners in all fairness ought not to have filed this writ petition. The writ petition is devoid of merit and it is accordingly dismissed. No costs.

Sd/-
Chief Justice

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